

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

Ellric Alfred Giroux, II,

Plaintiff,

-vs-

Claire Schwehr, Doris Brown, and Cass
County, ND,

Defendants.

Case No. 3:13-cv-62

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Pursuant to 28 U.S.C. § 636, the court has received a Report and Recommendation from the Honorable Alice R. Senechal, United States Magistrate Judge.¹ The Report and Recommendation recommends as follows: (1) defendants' motions for summary judgment be granted; (2) that the plaintiff's motions to continue and for discovery be dismissed as moot; (3) that the plaintiff's request to fine defense counsel be denied; and (4) that the plaintiff's suit be dismissed with prejudice. Giroux filed objections to the Report and Recommendation.²

In his objection, Giroux requests that the court review all documents submitted by him and find that he has presented sufficient evidence for a jury to decide in his favor. A *de novo* review of the record and law demonstrates that there is insufficient evidence of a county policy, custom, or practice that caused the alleged constitutional deprivation. As a result, Giroux's claims against Cass County must be dismissed. In addition, the individual defendants are entitled to qualified immunity because there is insufficient evidence of a

¹ Doc. #163.

² Doc. #172.

violation of Giroux's constitutional rights.

After reviewing the magistrate judge's Report and Recommendation, Giroux's objections, as well as the entire record, the court finds the magistrate judge's analysis and recommendations for disposition are appropriate. Accordingly, the court hereby adopts the Report and Recommendation in its entirety. **IT IS HEREBY ORDERED:**

- (1) Defendants' motions for summary judgment are **GRANTED**;
- (2) Giroux's motion to continue and motion for discovery are dismissed as **MOOT**;
- (3) Giroux's request to fine defense counsel is **DENIED**; and
- (4) This action is hereby dismissed with prejudice.

The court finds that any appeal would be frivolous, could not be taken in good faith, and may not be taken *in forma pauperis*.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated this 18th day of March, 2016.

/s/ Ralph R. Erickson
Ralph R. Erickson, Chief Judge
United States District Court